

No. 9/5/84-6Lab/4169.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management of Haryana Roadways, Kaithal (Haryana).

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA AT AMBALA CITY (HARYANA)

Reference No. 183 of 1984  
(Old No. 150 of 1982)

SHRI BRIJ MOHAN WORKMAN AND THE MANAGEMENT OF HARYANA ROADWAYS  
KAITHAL (HARYANA)

Present :

Shri U. Kant, for workman.  
Shri A.R. Goyal, for the respondent.

#### AWARD

The Hon'ble Governor of Haryana in exercise of the powers conferred,—*vide* clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to the Presiding Officer, Labour Court, Faridabad between Shri Brij Mohan Workman and the management of Haryana Roadways, Kaithal. The terms of the reference are as under :—

Whether the termination of services of Shri Brij Mohan, workman, was justified and in order ? If not, to what relief is he entitled to ?

Shri Brij Mohan, workman alleged that he joined services of the respondent as a Conductor through Employment Exchange. He had been discharging his duties honestly and earnestly. The flying squad checked his bus at Lohar Majra on Pehowa-Karnal Road with a voiced and mala fide intention. All the passengers were with tickets but the officers of the flying squads wrongly made a report that the workman had not issued tickets to 15 passengers and had charged price of the same. The inquiry which was conducted is also not fair, because he was not given an opportunity to cross-examine the witnesses and to lead defence evidence and his services were terminated by an arbitrary manner so he has prayed for re-instatement with continuity in service as well as with full back wages.

Respondent have contested the case and have contended that the reference is liable to be cancelled in this very square that the workman did not exhaust departmental remedy by way of filing of appeal to State Transport Commissioner, Haryana, Chandigarh.

It was also contended that the workman was employed as a Conductor. His bus was checked by the flying squad officials, 15 passengers were found without tickets. On enquiry they told that the Conductor had charged the price of the tickets, but did not issued tickets to them. On the basis of the report, charge-sheet was served upon to the workman. Workman Brij Mohan who submitted his reply to respondent did not feel satisfied with the reply in question. Inquiry Officer was appointed and regular enquiry was held in which witnesses were examined. Workman was afforded an opportunity to cross-examination them and later availed of the same. An opportunity was also affording to the workman to lead defence evidence, but he declined. The Inquiry Officer reached at the conclusion that workman Shri Brij Mohan had made embezzlement. The enquiry report show cause notice etc. were given to workman. Reply to the same was also filed by the workman. Thereafter personal hearing was also given to him by the General Manager. Since there were serious charges of the embezzlement which resulted into the termination of the services of the workman.

On the pleadings of the parties the following issues were framed :—

Issue No. 1 :

Whether the termination of services of Shri Brij Mohan, workman, was justified and in order ? If not, what relief is he entitled to ?

I have heard authorised representative of both the parties and have persued the oral and documentary evidence as well as Inquiry File placed on the records. My issue-wise findings are as under :—

Issue No. 2 :

In support of this issue respondent examined Shri Satya Parkash as MW-2 who deposed that before terminating the services of workman, charge-sheet MW-3 was served upon the workman who filed reply of the same thereafter Station Supervisor was appointed as Inquiry Officer. On receipt of enquiry report show-cause notice Ex-MW-12 was issued alongwith copy of Inquiry report. Workman filed his reply which is Ex-M-11,—

*vide* letter Ex-M-13 workman Brij Mohan was afforded an opportunity of personal hearing and thereafter,—*vide* order Ex. M-14 his services were terminated. Shri K.L. Mehta, Station Supervisor who was appointed as Inquiry Officer appeared as MW-I who deposed that respondent appointed his Inquiry Officer,—*vide* order Ex. M-1. Dealing hand brought the case file to him which contained the report of the Inspection Ex. M-2 along with charge-sheet Ex. M-3. Reply of workman Ex-M-4. Thereafter he issued notice Ex. M-5 to M-7. On 13th December, 1977 statement of Shri Vishwa Nath Inspector was recorded in the presence of the workman. The proceedings are Ex. M-8. Workman was afforded full opportunity to cross-examination the witnesses which he did. Workman submitted letter Ex. M-9 to him and thereafter he submitted his enquiry report Ex. M-12 to the department. In cross-examination this witness categorically denied the suggestion that workman was not afforded an opportunity to cross-examination the witnesses. He also denied that the workman was not heard.

Workman Shri Brij Mohan to controvert the evidence lead by the respondent, examined himself as AW-I. He made statement on solemn affirmation by saying that he did not embezzle Rs. 15.40. The Inquiry Officer did not conduct the enquiry in proper and fair manner. He was not given an opportunity to properly cross-examination the witnesses as well as defence evidence and more over cash and way bill were not checked by the Inspector. In cross-examination he admitted that he was an afforded opportunity of being heard in person. He did not went in appeal to the State Transport Commissioner, Haryana, Chandigarh.

In view of above evidence from the report Ex-MW-2 Shri Vishwa Nath, Inspector coupled with statement of Shri Dharam Vir Singh that 20½ passengers were travelling without tickets from Sandoli to Lohar Majra. Shri Brij Mohan had charged Rs. 15.40 nP from them and did not issue tickets. Shri Vishwa Nath Inspector got 15 tickets from the workman which were un-punched and are with the Inquiry File. On the basis of this report of embezzlement charge-sheet was served upon the workman. Shri K.L. Mehta, Station Supervisor was appointed an Inquiry Officer who recorded statement of witnesses who deposed against the workman. Shri Brij Mohan was given full opportunity to defend himself but he failed to do. The enquiry in question is proper and fair. It has not been vitiated by any means. The charges of embezzlement of Rs. 15.40 nP stand proved against the workman. The mere contention of the authorised representative of workman at the time of arguments the question of punishment is harsh and swear so it be reduced and benefit of service or other suitable relief may be granted to the workman. But with all due respects the contention of Ld. authorised representative of workman. I do not agree with his submission since the charges of embezzlement stands proceed against Shri Brij Mohan workmen, so he is not at all entitled to any lenient view. No merely can be sower upon him act of embezzlement is in fact is very serious and termination of his services is a most suitable punishment to him. Accordingly this issue is decided in favour of management and against the workman.

I pass my award regarding the controversy between the parties accordigly.

Dated the 20th March 1985.

V.P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

Endorsement No. 1092, dated Ambala City the 30th April, 1985.

Forwarded (Four Copies) to the Financial Commissioner and Secretary to Govt., Haryana, Labour & Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

V.P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

The 7th June, 1985

No. 9/5/84-6Lab/4899.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Bengal Oil Industries, Ward No. 5, Ballabgarh:—

**BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD**

**Reference No. 144/1983**

*between*

**SHRI NAWAL WORKMAN AND THE MANAGEMENT OF M/S BENGAL OIL INDUSTRIES, WARD NO. 5, BALLABGARH**

*Present :—*

Shri Hari Singh Yadav, for the workman.  
Shri H. R. Dua, for the management.



## AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Nawal workman, and the management of M/s Bengal Oil Industries, Ward No. 5, Ballabgarh, to this Tribunal, for adjudication :—

Whether the termination of service of Shri Nawal was justified and in order ? If not, to what relief is he entitled ?

2. Notices were issued to both the parties. Shri Devi Charan Goyal Proprietor of the respondent concern and Shri H. R. Dua representative of the management stated that the dispute between the workman and the management had been settled,—vide settlement Ex. M-1, according to which the workman had already received Rs. 1,300 in full and final settlement of his claim,—vide voucher Ex. M-2 and he had given up the right of reinstatement etc. and that no dispute was now left between the parties. Shri Hari Singh Yadav, representative of the workman stated that he had heard the above statement made by the representative of the management which was correct and that the dispute had been settled in terms of the documents Ex. M-1 and M-2 and that no dispute was now left between the parties. In view of the testimony of Shri Devi Charan Goyal Proprietor, Shri H. R. Dua representative of the Management and Shri Hari Singh Yadav, representative of the workman, and recitals made in the documents Ex. M-1 and M-2, the dispute between the parties stands settled as mentioned in the documents Ex. M-1 and M-2. The award is passed accordingly.

Dated the 30th May, 1985.

R. N. BATRA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 467, dated the 30th May, 1985.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/5/84-6Lab/4900.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Bengal Oil Industries, Ward No. 5, Ballabgarh :—

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 142/1983

between

SHRI RAM LAL, WORKMAN AND THE MANAGEMENT OF M/S BENGAL OIL INDUSTRIES,  
WARD NO. 5, BALLABGARH

Present—

Shri Hari Singh Yadav, for the workman.

Shri H. R. Dua, for the management.

## AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Ram Lal workman and the management of M/s Bengal Oil Industries, Ward No. 5, Ballabgarh, to this Tribunal for adjudication :—

Whether the termination of services of Shri Ram Lal was justified and in order ? If not, to what relief is he entitled ?

2. Notices were issued to both the parties. Shri Devi Charan Goyal Proprietor of the respondent concern and Shri H. R. Dua representative of the Management stated that the dispute between the workman and the management had been settled,—*vide* settlement Ex. M-1, according to which the workman had already received Rs. 1,300 in full and final settlement of his Claim,—*vide* voucher Ex. M-2 and he had given up the right of reinstatement etc., and that no dispute was now left between the parties. Shri Hari Singh Yadav representative of the workman stated that he had heard the above statement made by the representative of the management, which was correct, and that the dispute had been settled in terms of the documents Ex. M-1 and M-2 and that no dispute was now left between the parties. In view of the testimony of Shri Devi Charan Goyal, Proprietor, Shri H. R. Dua representative of the Management and Shri Hari Singh Yadav, representative of the workman, and recitals made in the documents Ex- M-1 and M-2, the dispute between the parties stands settled as mentioned in the documents Ex. M-1 and M-2. The award is passed accordingly,

R. N. BATRA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated the 30th May, 1985.

Endst. No. 468, Dated the 30th May, 1985

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/5/84-6Lab./4934.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. (i) Superintendent, Government Live Stock Farm, Hissar, (ii) Director, Indo-Australian Cattle Breeding Project, Hissar.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 223 of 83

*between*

SHRI RAMJI LAL, WORKMAN AND THE MANAGEMENT OF M/S (I) SUPERINTENDENT, GOVERNMENT LIVE STOCK FARM, HISSAR (II) DIRECTOR, INDO-AUSTRALIAN CATTLE BREEDING PROJECT, HISSAR

Shri T. C. Gupta, A. R. for the workman.

Shri Deepak Sikka, A. R. for the respondent,

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Ramji Lal and the management of M/s. (i) Superintendent, Government Live Stock Farm, Hissar (ii) Director, Indo-Australian Cattle Breeding Project, Hissar, to this Court, for adjudication,—*vide* Labour Department Gazette Notification No. 59310-14, dated 11th November, 1983:—

Whether the termination of services of Shri Ramji Lal is justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The claim of the workman is that he was working as Labourer with the respondent on daily wages of Rs 9 and that his services were terminated by the respondent on 4th September, 1982 without



payment of any retrenchment compensation or any prior notice, thus clearly violating the provisions of section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

3. In the reply filed by the respondent, preliminary pleas taken are that the petition has not been properly signed and verified, which is bad for non-joinder of necessary parties and that this Court has no jurisdiction to adjudicate upon the controversy in hand, because the respondent is not an "Industry" and further no cause of action accrued in favour of the petitioner, whose claim is barred by limitations. It is further averred that the applicant of his own starting absents from his duty after 1st September, 1982 and as such, there is no question of the respondent terminating his services and that since the workman was employed as casual labourer, no record regarding his work and conduct was maintained.

4. On the pleadings of the parties, the following issues were framed for decision by me on 12th September, 1984 :—

(1) Whether the respondent is not an "industry" as defined under section 2(j) of the Industrial Disputes Act, 1947 ?

(2) Whether the termination of services of Shri Ramji Lal is justified and in order ? If not, to what relief is he entitled ?

5. The management in its evidence examined Shri Deepak Sikka, its Deputy Superintendent as MW-1 and the workman appeared as his own witness as WW-1.

6. The learned Authorised Representatives of the parties heard. My findings on the issues framed are as below :—

*Issue No. 1 :*

7. The term "industry" has been given the widest amplitude by the Hon'ble Supreme Court of India in its historic judgement rendered in Bangalore Water Supply case reported in 1978 Lab. I. C. 467. During the course of arguments the learned Authorised Representative of the respondent admitted that the activities of the respondent though strictly not profit making, but the same cannot be taken out from the purview of "Industry" as defined in section 2(j) of the said Act.

*Issue No. 2 :*

8. The clear cut defence of the respondent is that after 1st September, 1982 the workman started absents from his duties of his own and that no order of termination was ever passed against him and in such a situation, the controversy in hand is absolutely alien to the terms of reference, which lies in a very narrow compass regarding the justifiability or otherwise of the termination order, which was never passed by the respondent in the present case. The law is settled that the Labour Court cannot travel beyond the terms of reference, though it can decide the question which are incidental or ancillary to the terms of reference. On this point a reference can be made to 1984 (II) LLN 197 Sita Ram Vishnu Shirodhkar and Administrator Government of Goa and others, India Tourism Development Corporation New Delhi Vs. Delhi Administration Delhi and others, and 1985 Lab. I. C. 480 Rajasthan State Road Transport Corporation and others Vs. The Judge, Industrial Tribunal Rajasthan, Jaipur and others.

9. All these authorities cited above go to substantiate the plea of the respondent that the controversy in hand substantially spills over the terms of reference. So, on this account the reference can be held bad in law.

10. Since the terms of reference are absolutely alien to the controversy before the Court, issue No. 2 need not be gone into and the present reference can be disposed of as being bad in law. The same is answered and returned accordingly. There is no order as to cost.

Dated, the 11th May, 1985,

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.

Endst. No 223/83/822, dated the 31st May, 1985.

Forwarded (Four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak.